

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3668 OF 2005

The State of Maharashtra.	...Applicant
V/s.	
Mithalal Ratanchand Jain.	...Respondent

Shri R.Y. Mirza, APP for the State.
Shri Raju D. Suryawanshi for Respondent.
Ms.Kala Zaveri, Original Complainant present in person.

CORAM : V.M. KANADE, J.

DATED : APRIL 12, 2006

P.C. :-

. Heard learned Counsel for the applicant, the complainant who is appearing in person and the learned Counsel for the respondent.

. This is an application for cancellation of bail. The applicant was granted bail on 24th February, 2005 by the Sessions Court. A complaint has been filed by the complainant alleging that the respondent-original accused has fabricated the documents and has made changes in the property which was owned by her husband and has virtually grabbed the said property. After the respondent-original accused was released on bail, an application has been filed by the State of Maharashtra for cancellation of the bail which was granted by the

Sessions Court.

2. The two grounds on which cancellation of bail is sought are, firstly, it is alleged that the specimen thumb impression of the original accused has not been obtained and secondly, it is alleged that the respondent-original accused has not handed over copy of the original documents which were allegedly executed by the husband of the original complainant and the original accused, viz. the tenancy agreement dated 4th April, 1975. It is alleged that the entries in the regular records were altered fraudulently and without the knowledge of the original complainant. It is, therefore, submitted that the bail which was granted by the Sessions Court should be cancelled.

3. The complainant has appeared in person and she has submitted that the entire property belonging to her late husband has been swallowed by the original accused. She has stated that she alongwith her husband was residing in the United States and her husband died in the year 1988 and thereafter, when she came to India,

she was shocked and surprised to see that the property which was purchased by her in the year 1969 and which was initially given on rent was transferred in the name of the original accused by forging certain documents and by making changes in the regular records. It is her case that the original accused has, therefore, committed offence of forgery by creating false records, altering the revenue records without the consent and knowledge of the complainant and therefore, the bail was liable to be cancelled.

4. Learned Counsel appearing on behalf of the respondent, on the other hand, has submitted that the provisional documents were shown to the police. This, however, was vehemently denied by the original complainant. Since there was dispute regarding the documents which according to the original accused were part of the record of the Civil Court where the dispute is pending, this Court by order dated 20th March, 2006 directed the Civil Judge, Junior Division, Thane, to send the documents in a sealed cover and more particularly the Xerox certified copy of the Agreement

dated 4th April, 1975 which was submitted alongwith the list of documents in Regular Civil Suit No. 653 of 2004 by the respondent herein. Pursuant to the directions which were given, the Civil Judge sent the aforesaid documents and thereafter, the direction was given permitting the learned APP and the original complainant and the respondent to take inspection and to apply for Xerox certified copy of the documents.

5. I am informed that such applications have been made and xerox certified copies have been obtained. The learned APP submits that these xerox certified copies have been sent to the Handwriting Expert in order to ascertain whether the said signatures are forged or not. He submitted that as soon as the information is obtained and other investigation is completed by the department in respect of the entries which are mentioned, the chargesheet will be filed.

6. The Investigating Officer is directed to complete the investigation and in any case, within a period of three months and after the chargesheet is

filed, the trial Court may thereafter, expeditiously, decide the case within the period of one year after the chargesheet is filed. In my view, no case is made out for cancellation of the bail as the two grounds on which the application has been filed have already been fulfilled by virtue of directions which are given by this Court.

7. The respondent is further directed to report to the concerned Investigating Agency for a period of one year from 17th April, 2006 from 11 a.m. to 5 p.m. The respondent shall co-operate with the Investigating Officer.

8. The respondent shall not tamper with the evidence or threaten any witnesses. If any complaint is received by the Investigating Officer in that regard, liberty is granted to the Public Prosecutor to apply for cancellation of bail.

9. With these directions, application is disposed of.

(V.M. Kanade, J.)